

III. PARTIES

4. Plaintiff Saif Ullah Khan is a lawful permanent resident of the United States (A# 046-976-939) and an applicant for naturalization since June 28, 2005. He is a resident of Brooklyn, New York.
5. Defendant Andrea Quarantillo is being sued in her official capacity as the Director of the New York District Office of the Department of Homeland Security, Citizenship and Immigration Services (hereinafter CIS), the office which conducted Plaintiff's interview for naturalization and which has jurisdiction over his application.
6. Defendant Robert Mueller is being sued in his official capacity as the Director of the Federal Bureau of investigation, the agency responsible for performing the background and security checks required before an application for naturalization can be adjudicated.
7. Defendant, Alberto Gonzales is being sued in his official capacity as the Attorney General of the US Department of Justice.
8. Defendant, Michael Chertoff is being sued in his official capacity as the Secretary of the Department of Homeland Security, the office which despite several attempts, failed to respond to the above caption matter.

IV. FACTUAL ALLEGATIONS

9. Plaintiff Saif Ullah Khan's copy of passport, **exhibit "A"** and copy of green card, **exhibit "B"**, are included within. Plaintiff Saif Ullah Khan filed an N-400 application for naturalization on or about July 7, 2004, included is the interview notice, **exhibit "C"**. He was interviewed on June 28, 2005. He passed his English language and Government examinations on that date. However, he was given notice that he could not be recommended for final approval because his security checks were not complete.
10. Plaintiff meets all the requirements for naturalization in that he is over the age of 18; he is a person of good moral character; he has been a permanent resident for five years; he has the required physical presence in the United States; he passed the required examinations; and he is attached to the principals of the Constitution and the Government of the United States.
11. There is no evidence that he falls into any of the categories of statutory ineligibility.

12. Since his interview, Plaintiff has made numerous efforts to get Defendants to complete his security checks and adjudicate his application, including but not limited to: making written inquiry to the DHS; writing to various Government officials. Marked and annexed hereto as **exhibit "D"** is the copy of the inquiry letter from current attorney, Naresh M. Gehi, to DAO E. Torres. Marked and annexed hereto as **exhibit "E"** is the copy of reply from DAO E. Torres in response to Plaintiff Mr. Khan's Inquiry dated May 14, 2007. Marked and annexed hereto as **exhibit "F"** is the copy of the letter received from USCIS dated October 19, 2005 indicating that the fingerprint clearance is pending. Marked and annexed hereto as **exhibit "G"** is the copy of Plaintiff Mr. Khan's inquiry letter regarding his citizenship dated October 19, 2005. Marked and annexed hereto as **exhibit "H"** is copy of Plaintiff Mr. Khan's inquiry letter regarding his citizenship dated July 21, 2006. Marked and annexed hereto as **exhibit "I"** is the copy of Plaintiff Mr. Khan's FBI Security check notice letter received from USCIS dated April 24, 2006 indicating that his FBI clearance is pending. Marked and annexed hereto as **exhibit "J"** is the copy of Plaintiff Mr. Khan's FBI Security check notice received from USCIS dated May 2, 2006 stating that his FBI clearance is still pending.
13. Plaintiff has exhausted his administrative remedies. As of his latest, his security clearances were still pending.
14. As a result of Defendants' willful and unreasonable delay in adjudicating Plaintiff's application, Plaintiff has been unable to bring his spouse to the United States; has lost valuable job opportunities; has been deprived of his peace of mind; and deprived of important benefits, rights and protections to which he would be entitled as a citizen of the United States.

V. STATUTORY AND REGULATORY FRAMEWORK

15. The Immigration and Nationality Act provides for the naturalization of lawful permanent residents of the United States who meet the requirements set forth therein. 8 U.S.C. §1445 et seq. The Act specifies that the filing of an N-400 application shall trigger a background investigation of the applicant, including a review of all pertinent immigration and police records. 8 U.S.C. §1446(a). In this case, the N-400 application was filed on July 7, 2004. Approximately three years have passed since the background investigation should have commenced.
16. In addition, the regulations provide that said investigation of the applicant **shall be completed** before any examination of the applicant takes place. 8 C.F.R. §335.2(b). However, at the time of Plaintiff's examination on June 28, 2005, the background investigation had not been completed.

17. Neither the INA nor the regulations provide a mandatory timeframe in which security clearances must be completed. However, the regulations do require that once an applicant is interviewed, the decision to grant or deny shall be made within 120 days by the USCIS thereof. 8 C.F.R. §335.3. It has been nearly three years and 4 months since Plaintiff was interviewed. (June 28, 2005)
18. Plaintiff re-alleges Paragraphs one through sixteen as though fully set forth herein.
19. Defendants have willfully and unreasonably delayed in the completion of the security checks required for final adjudication of Plaintiff's naturalization application.
20. The delay in completing the required background checks cannot be attributed to Plaintiff in any way.
21. Plaintiff has exhausted any administrative remedies that might exist. No other remedy exists for him to resolve Defendants' delay.

VI. REQUEST FOR RELIEF

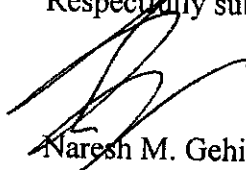
WHEREFORE, Petitioner Saif Ullah Khan, respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Find that Respondent FBI has unreasonable and unlawfully delayed in completing the necessary background checks in a timely manner, and has unreasonably and unlawfully delayed in providing the results of background checks to the CIS;
3. Direct that the FBI complete any and all necessary name checks or other background or security checks within 30 days, and promptly provide the results to USCIS;
4. Review *de novo* Petitioner's application for naturalization, determine that he meets all the requirements for citizenship, grant him naturalization, and direct that USCIS promptly schedule an oath ceremony and issue his Certificate of Citizenship;
5. If necessary, order that a hearing take place concerning his application of naturalization;

6. Award reasonable costs and attorney's fees pursuant to the Equal Access to Justice Act; and
7. Grant any and all further relief this Court deems just and proper.

Dated this ____ day of June, 2007.

Respectfully submitted,



Naresh M. Gehi, ESQ.
Attorney for Plaintiff

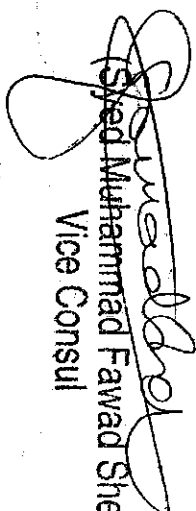
Naresh M. Gehi, P.C
The Pickman Building
118-21 Queens BLVD., Suite 411, 4th Floor
Forest Hills, NY 11375
(718)-263-5999

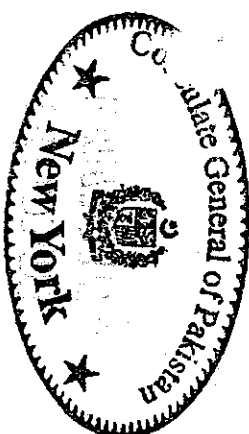
EXHIBIT 'A'

15827-412
Please see page 15827

یہ پاسپورٹ پاکستان کے لیے جاری کیا گیا ہے اور اسے
سب دوروں کے لیے ماعدا اسرائیل
THIS PASSPORT IS VALID FOR ALL COUNTRIES OF
THE WORLD EXCEPT ISRAEL.
TOUS LES PAYS DU MONDE EXCEPTE ISRAEL.

KC927127


Syed Muhammad Fawad Sher
Vice Consul



RENEWAL
No. 121 - Date 14-12-2004.
Passport is hereby renewed
until the 01-12-2005.

وزیر
الداخلات
VISAS

KC927127

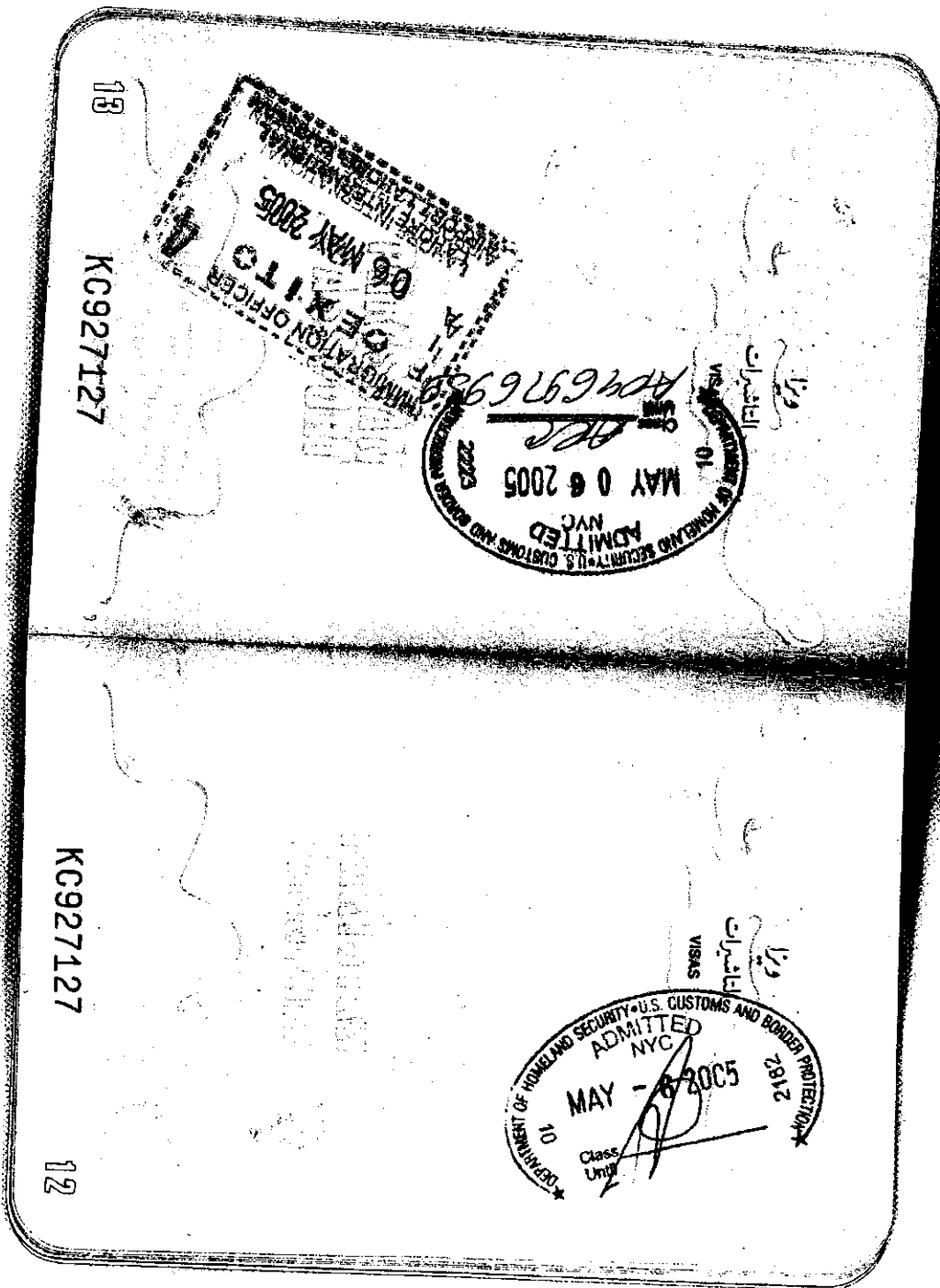


EXHIBIT ‘B’

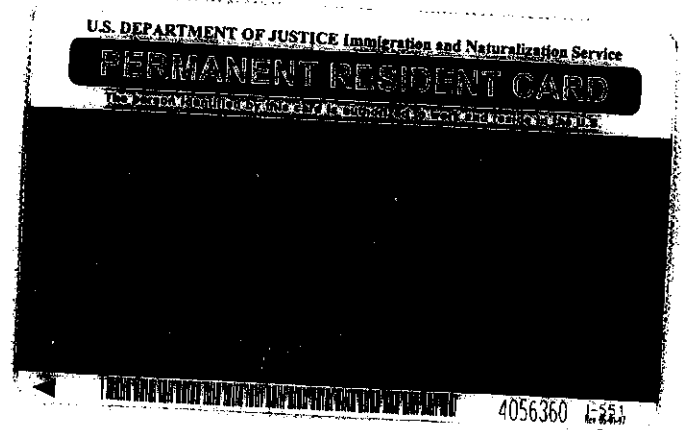


EXHIBIT 'C'

UNITED STATES OF AMERICA

Request for Applicant to Appear for Naturalization Initial Interview			NOTICE DATE March 06, 2005
CASE TYPE N400 Application For Naturalization			INS AF A 046 976 939
APPLICATION NUMBER ESC*001269526	RECEIVED DATE July 07, 2004	PRIORITY DATE July 07, 2004	PAGE 1 of 1

APPLICANT NAME AND MAILING ADDRESS
SAIF ULLAH KHAN
507 WEST 134TH STREET APT 3
NEW YORK NY 10031

Please come to:
USINS MANHATTAN CENTER
26 FEDERAL PLAZA
7TH FLOOR ROOM RM7-700
MAIN ROOM
NEW YORK NY 10278
On (Date): Tuesday, June 28, 2005
At (Time): 12:05 PM

You are hereby notified to appear for an interview on your Application for Naturalization at the date, time, and place indicated above. **Waiting room capacity is limited. Please do not arrive any earlier than 30 minutes before your scheduled appointment time.** The proceeding will take about two hours. If for any reason you cannot keep this appointment, return this letter immediately to the INS office address listed below with your explanation and a request for a new appointment; otherwise, no further action will be taken on your application.

If you are applying for citizenship for yourself, you will be tested on your knowledge of the government and history of the United States. You will also be tested on reading, writing, and speaking English, unless on the day you filed your application, you have been living in the United States for a total of at least 20 years as a lawful permanent resident and are over 50 years old, or you have been living in the United States for a total of 15 years as a lawful permanent resident and are over 55 years old, or unless you have a medically determinable disability (you must have filed form N648 Medical Certification for Disability Exception, with your N400 Application for Naturalization).

You MUST BRING the following with you to the interview:

- This letter.
- Your Alien Registration Card (green card).
- Any evidence of Selective Service Registration.
- Your passport and or any other documents you used in connection with any entries into the United States.
- Those items noted below which are applicable to you:

If applying for NATURALIZATION AS THE SPOUSE of a United States Citizen:

- Your marriage certificate.
- Proof of death or divorce for each prior marriage of yourself or spouse.
- Your spouse's birth or naturalization certificate or certificate of citizenship.

If applying for NATURALIZATION as a member of the United States Armed Forces:

- Your discharge certificate, or form DD 214.

If copies of a document were submitted as evidence with your N400 application, the originals of those documents should be brought to the interview.

PLEASE keep this appointment, even if you do not have all the items indicated above.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
7TH FLOOR ROOM 7-700
26 FEDERAL PLAZA
NEW YORK NY 10278

INS Customer Service Number:
(800) 375-5283

APPLICANT COPY




EXHIBIT 'D'

LAW OFFICES OF N.M. GEHI, P.C.

ATTORNEYS & COUNSELLORS AT LAW

THE PICKMAN BUILDING • 118-21 QUEENS BLVD. • SUITE 411, 4TH FL. • FOREST HILLS, NY 11375
TEL: (718) 263-5999 • FAX: (718) 263-1685

May 2, 2007

Attn: DAO E. Torres
USINS Manhattan Center
U. S. Citizenship & Immigration Services
7th Floor Room 7-700
New York, NY 10278

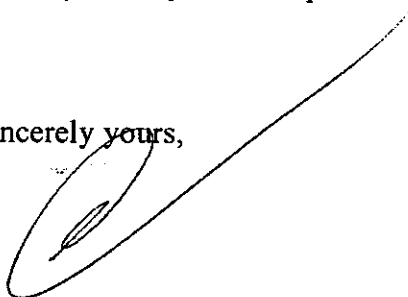
RE: A 046-976-939; ESC*001269526
Khan Saif Ullah

Dear DAO E. Torres:

I am the newly retained attorney for the above mentioned matter and Form G-28 is attached herewith for your reference. My client was interviewed for his Naturalization on June 28, 2005 and was issued Form N-652 informing him that a decision will soon be mailed to him. It has been an exceptionally long time, and my client has not received a reply from the USCIS in connection with his Oath Ceremony. Therefore, I would very much appreciate it if my client could be scheduled for his Oath Ceremony as soon as possible.

Thank you for your anticipated help and co-operation.

Sincerely yours,



Law offices of N. M. Gehi. P. C.
Naresh M. Gehi. Esq.,

Encl: 1) Form G-28
2) Copy of the Form N-652 dated 06/28/2005

CC: 1) Hon. Prakash Khatri

EXHIBIT ‘E’

**U.S. Citizenship
and Immigration
Services**

May 14, 2007

Naresh M. Gehi, Esq.
Law Offices of N.M. Gehi, P.C.
118-21 Queens Blvd, Suite 411, 4th Fl.
Forest Hills, NY 11375

Re: Application for Naturalization
Khan Saif Ullah
File No.: A 046 976 939

Dear Mr. Gehi:

This will acknowledge receipt of your inquiry, dated May 2, 2007, regarding the status of your client's Application for Naturalization in the above-referenced matter.

Please be advised that your client's application is pending receipt of security checks by the Federal Bureau of Investigation ("FBI"). Please note that the CIS cannot act upon your client's application until completion of all security checks by the FBI. Upon receipt of all security checks from the FBI, a decision will be made on the application and you will be notified accordingly. In the mean time, your client's application must remain pending.

We hope the information provided is helpful. Please accept our apology for the delay. Many thanks for your patience.

Sincerely,

A handwritten signature in black ink, appearing to read "Eladio A. Torres", written over a horizontal line.

Eladio A. Torres
District Adjudications Officer

EXHIBIT ‘F’



U.S. Department of Homeland Security

Citizenship and Naturalization Service

October 19, 2005

26 Federal Plaza
New York, NY 10278

Saif U. Khan

Re: A 46976939

Dear Ms. Khan,

This will acknowledge receipt of your inquiry dated October 19, 2005 regarding the status of your application for naturalization.

Please be advised that his application is pending receipt for security checks. Upon receipt of all security checks, a decision will be made on his application for naturalization.

We hope the information provided is helpful. Thank you for your patience and cooperation in this matter.

Sincerely,

Julissa Pabon
Immigration Information Officer
Naturalization
New York District

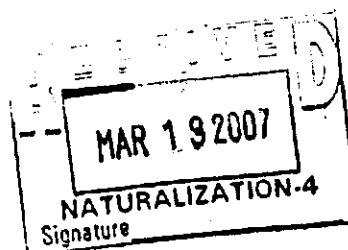
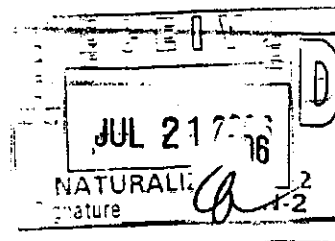
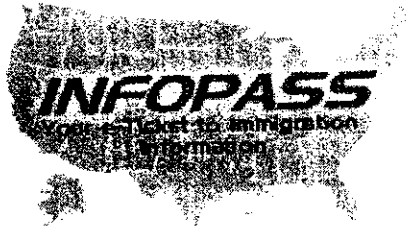


EXHIBIT 'G'

InfoPass



Name: Saif U Khan

**Appointment Speak to immigration officer
Type:**

Confirmation No.: NYC-05-211792

Authentication Code: 2b80

**Appointment Date: October 19,
2005**

Appointment Time: 11:15 AM

Location: 26 FEDERAL PLAZA, New York, NY 10278; Room 310

Please be on time. Failure to show up on time will result in the cancellation of your appointment. You will then need to reschedule your appointment. You will not be admitted more than 15 minutes before your scheduled appointment time.

- **You must appear in person and bring photo identification along with this appointment letter.**
- **Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)**
- **In order to serve you more efficiently, we require you to bring all applicable immigration forms, letters, receipts, translations and originals of supporting documents.**

**This is your Confirmation
Number:**



*** NYC - 05 - 211792 ***

**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
86067**

EXHIBIT ‘H’



Name: Saif U Khan

Appointment Speak to immigration officer

Type:

Confirmation NYC-06-111718

No.:

Appointment July 21, 2006

Date:

Authentication 2b80

Code:

Appointment 9:00

Time: AM

Location: 26 FEDERAL PLAZA, New York, NY 10278; Room 310

**This is your Confirmation
Number:**



* NYC - 06 - 111718 *

**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
69532**

**Please be on time. Failure to show up on time will result in the cancellation of
your appointment. You will then need to reschedule your appointment. You will
not be admitted more than 15 minutes before your scheduled appointment time.**

- **You must appear in person and bring photo identification along with this appointment letter.**
- **Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)**
- **In order to serve you more efficiently, we require you to bring all applicable immigration forms, letters, receipts, translations and originals of supporting documents.**

EXHIBIT 'I'



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
26 Federal Plaza, Room 7-700
New York, NY 10278

Name Sai Uikh Khay File No. A 469 769 35 Date: 4/24/06

Examination of the submitted application _____ shows that certain additional information, documents, or forms are needed before your application can be acted upon. To help you in that connection, we have checked in **red** in this letter the items that need your attention. Read those items and comply as soon as possible. **RETURN THIS LETTER**, with the requested information, documents and forms. We will then complete the processing of your application.

- Unless you furnish the requested information or document(s) checked, your application for naturalization will be denied for lack of prosecution.
- ☒ Your application is currently pending fingerprint/security check results. You will be notified upon completion of the process.
- Send money order or check for \$----- made payable to the U.S.C.I.S., Vermont Service Center, 75 Lower Weldon Street, St. Albans, Vermont 05479-0001. **Do not send cash or postage stamps.**
- Your application has been received. You will receive a notice to appear upon scheduling.
- Applications are valid for one year. Your application was filed over one year ago and expired on _____. If you still wish to become a U.S. Citizen, you must file a new application with the required fee and two photographs.
- Your application is currently pending a new appointment. You will be sent a notice to appear in the near future.
- Your application for Naturalization has been granted. You will be sent a notice of your oath ceremony date.
- This office has no record of your application. Please resubmit a new application with proof of payment, it may be in the form of a canceled check, or the results of a tracer on your money order. It must indicate the date it was cashed by the C.I.S. In addition, please submit two new photographs.
- Please submit a photocopy of your alien registration card (front and back) A# _____.
- You failed to appear for two scheduled interviews. Your application is therefore denied and closed. If you still wish to become a U.S. Citizen, you must reapply with the required fee and two photographs.
- You failed to appear for one scheduled interview. Your application is therefore closed. If you still wish to become a U.S. Citizen, you must submit a written request to have your case reopened and rescheduled a new appointment.
- Your application has been denied. To request a duplicate copy, please submit your G-639 request(s) to: U.S.C.I.S., FOIA Unit, Room 5-500, 26 Federal Plaza, New York, NY 10278. If you still wish to become a U.S. Citizen you must reapply.
- Your N-565 request for certificate correction has been denied for the following reason(s):

Thank you,
U.S. Citizenship and Immigration Services

EXHIBIT ‘J’



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
26 Federal Plaza, Room 7-700
New York, NY 10278

Name Saif Ullah Khan File No. A 46 576 939 Date: 5/2/06

Examination of the submitted application _____ shows that certain additional information, documents, or forms are needed before your application can be acted upon. To help you in that connection, we have checked in **red** in this letter the items that need your attention. Read those items and comply as soon as possible. RETURN THIS LETTER, with the requested information, documents and forms. We will then complete the processing of your application.

- Unless you furnish the requested information or document(s) checked, your application for naturalization will be denied for lack of prosecution.
- ✓ Your application is currently pending fingerprint/security check results. You will be notified upon completion of the process.
- Send money order or check for \$----- made payable to the U.S.C.I.S., Vermont Service Center, 75 Lower Weldon Street, St. Albans, Vermont 05479-0001. **Do not send cash or postage stamps.**
- Your application has been received. You will receive a notice to appear upon scheduling.
- Applications are valid for one year. Your application was filed over one year ago and expired on _____. If you still wish to become a U.S. Citizen, you must file a new application with the required fee and two photographs.
- Your application is currently pending a new appointment. You will be sent a notice to appear in the near future.
- Your application for Naturalization has been granted. You will be sent a notice of your oath ceremony date.
- This office has no record of your application. Please resubmit a new application with proof of payment, it may be in the form of a canceled check, or the results of a tracer on your money order. It must indicate the date it was cashed by the C.I.S. In addition, please submit two new photographs.
- Please submit a photocopy of your alien registration card (front and back) A# _____.
- You failed to appear for two scheduled interviews. Your application is therefore denied and closed. If you still wish to become a U.S. Citizen, you must reapply with the required fee and two photographs.
- You failed to appear for one scheduled interview. Your application is therefore closed. If you still wish to become a U.S. Citizen, you must submit a written request to have your case reopened and rescheduled a new appointment.
- Your application has been denied. To request a duplicate copy, please submit your G-639 request(s) to: U.S.C.I.S., FOIA Unit, Room 5-500, 26 Federal Plaza, New York, NY 10278. If you still wish to become a U.S. Citizen you must reapply.
- Your N-565 request for certificate correction has been denied for the following reason(s):

Thank you,
U.S. Citizenship and Immigration Services LS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the foregoing Complaint for a Writ of Mandamus by first-class mail, certified return receipt, postage prepaid, this ____ day of June 2007 on:

Andrea Quarantillo, District Director
US Citizenship & Immigration Services
26 Federal Plaza
NY, NY 10278

Robert Mueller, Director
Federal Bureau of Investigation
935 Pennsylvania Ave., N.W.
Washington, D.C. 20535-0001

Alberto Gonzales, Attorney General
US Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20528-0001

Office of the United States Attorney
Southern District of New York
86 Chambers St.
New York, NY 10007

Michael Chertoff, Secretary of the
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Naresh M. Gehi, ESQ.

Naresh M. Gehi, P.C
The Pickman Building
118-21 Queens BLVD., Suite 411, 4th Floor
Forest Hills, NY 11375
(718)-263-5999